

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

OSCAR GATES, No. C 88-2779 WHA

Petitioner, **ORDER**

v.

KEVIN CHAPPELL, Warden,

Respondent.

It has come to the Court's attention that respondent has scheduled a mental health examination of petitioner by Dr. Park Dietz. The examination is apparently scheduled for March 3, 2014. Respondent notified petitioner of this scheduled examination, but did not notify the Court, nor move to conduct the examination pursuant to Fed. Rule Civ. Pro. 35.

As the Court's earlier orders clearly indicated, the parties are to submit a joint proposal to the Court regarding any proposed examination of petitioner. *See* Docket Nos. 660 and 700. Per the Court's earlier orders, Rule 35, and the procedures that have previously been followed in this matter, neither party is permitted to examine petitioner Gates without prior leave of Court. Nothing in the Court's earlier orders authorized an independent examination of petitioner without Court approval of the procedures to be utilized for the examination. Accordingly, respondent's scheduled exam of petitioner is VACATED. The parties are once

1 again ORDERED to meet and confer in good faith, and to submit a joint plan for examination of
2 petitioner Gates. No examination of petitioner Gates is to be conducted absent leave of Court.
3
4

5 **IT IS SO ORDERED.**

6
7
8 Dated: February 24, 2014.

Wm. Alsup
9
10 WILLIAM ALSUP
11 UNITED STATES DISTRICT JUDGE
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28